

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Criminal No. 1:16-cr-034-08
	)	
-vs-	)	UNITED STATES' MOTION TO
	)	CONTINUE JURY TRIAL (AMENDED)
BRITNY WEHRI,	)	
	)	
Defendant.	)	

The United States of America, by and through its attorney, Christopher C. Myers, United States Attorney, and Rick L. Volk, Assistant United States Attorney, hereby moves this Court for an Order continuing the jury trial scheduled for October 24, 2017, in the above matter. Further, the United States requests this Court order that any delay as a result of such continuance be excluded from the Speedy Trial Act's computation of time for bringing the defendant to trial pursuant to 18 U.S.C. § 3161(h)(3)(A). This motion is based upon the following:

1. The Defendant was arrested and made her initial appearance before the Court on or about March 15, 2016 (Docket Entries 81 and 82);
2. Following a detention hearing on March 17, 2016, the Defendant was detained pending further proceedings (Docket Entries 84 and 87);
3. On or about April 5, 2016, the Defendant was released on conditions and ordered to reside with her mother Debra Lukenbill in Minnesota (Docket Entry 90);
4. On or about May 31, 2016, the United States Pretrial Services Office ("USPO") filed a Petition for Action on Conditions of Pretrial Release, alleging the Defendant had

violated the previously ordered conditions by (a) failing to report to her pretrial services officer as directed; (b) failing to report for drug testing as instructed; and (c) moving her place of residence without prior approval from her pretrial services officer (Docket Entry 106). The Petition noted that the pretrial services officer had made efforts to locate the Defendant, but her whereabouts were unknown. (Docket Entry 106)

5. Based upon the Petition, this Court issued an Arrest Warrant for the Defendant on or about May 31, 2016 (Docket Entry 107).
6. To date, the Defendant has not been located and/or arrested on the Arrest Warrant. That Warrant remains outstanding. The Defendant has made no known contact with anyone from USPO, the Court, the investigating law enforcement agents, or US Attorney's Office.

Title 18, United States Code, Section 3161(h)(3)(A), directs a Court to exclude any period of delay resulting from the absence or unavailability of the defendant in computing the time within which the trial of any offense(s) charged in an Indictment against that defendant must occur. A defendant shall be considered "absent" when her whereabouts are unknown and, in addition, she is attempting to avoid apprehension or prosecution or her whereabouts cannot be determined by due diligence. See 18 U.S.C. § 3161(h)(3)(B). Here, the Defendant's whereabouts have been unknown for several months and, despite the pending arrest warrant, has managed to avoid apprehension. Having appeared and been placed on conditions requiring her to report to the USPO, a reasonable inference can be

drawn that the Defendant is attempting to avoid apprehension or prosecution based upon her failure to maintain contact with USPO. Therefore, any delay resulting from a continuance granted by the Court should be excluded from the Speedy Trial Act's calculation for bringing the Defendant to trial.

Wherefore, the United States requests this Court issue an order (a) continuing the jury trial scheduled for October 24, 2017; (b) excluding the period of delay under the provisions of the Speedy Trial Act; and, (c) reschedule trial only upon the Defendant's arrest on the outstanding Arrest Warrant.

Dated this 12th day of October, 2017.

CHRISTOPHER C. MYERS  
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